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U.S.D.C. - Atlanta

OCT 03 2013

JAMES N. HATTEN, Clerk
By: [signature] Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Beverly Carter
Plaintiff

vs.

Kaiser Permanente
Defendant

RWWS

1:13-CV-3301

TITLE VII COMPLAINT

1. Plaintiff resides at 748 Peninsula overlook Dr. Hampton GA 30228

2. Defendant(s) names (s) Kaiser Permanente Ins. Co.

Location of principal office(s) of the named defendant(s) Kaiser Foundation Health Plan of Georgia Inc 9 Piedmont Center 3495 Piedmont Rd, NE Atlanta, GA 30305-1736

Nature of defendant(s) business Caring for sick

Approximate number of individuals employed by defendant(s) 500 people

*Note: This is a form complaint provided by the Court for pro se litigants who wish to file an employment discrimination lawsuit. It is not intended to be used for other kinds of cases.

3. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is specifically conferred on the court by 42 U.S.C. § 2000e-5. Equitable and other relief are also brought under 42 U.S.C. §e-5(g).

4. The acts complained of this suit concern:

A. ________ Failure to employ me.
B. ________ Termination of my employment.
C. ________ Failure to promote me.
D. ________ Other (Specifiy) Discrimination base on age and race

5. Plaintiff:

A. ________ presently employed by the defendant.
B. ✓ not presently employed by the defendant. The dates of plaintiff's employment were ________________.
The reasons plaintiff was given for termination of employment is/are:
(1) ________ plaintiff was discharged.
(2) ________ plaintiff was laid off.
(3) ________ plaintiff left the job voluntarily.

6. Defendant(s) conduct is discriminatory with respect to the following:

A. ✓ my race
B. ________ my religion.
C. ________ my sex.
D. ________ my national origin.
E. ✓ Other (specify) age

7. The name(s), race, sex and the position or title of the individual(s) who allegedly discriminated against me during the period of my employment with the defendant company is/are: LILIAN BACIAN race - white / Hispanic position - Manager

8. Describe the discriminatory actions or events you are complaining of in this lawsuit. Give factual detail, including names and dates concerning what happened. You do not need to refer to any statutes or cite law.

The first act of discrimination was base on performance review. In all of my fourteen years with the company I only got above average performance review. Unequal treatment with her piers name Jill Mandl. Mrs Bacian never could show documentation where she ever counsled Me.

9. The alleged illegal activity took place at Henry Town center and at Kaiser regional office at 3495 Piedmont Rd NE Atlanta Ga. 30305-1736

10. A. ✓ I have filed a charge with the Equal Employment Opportunity Commission regarding defendant(s). (I have attached a copy of my charge(s) filed with the Equal Employment Opportunity Commission, which are incorporated into this complaint.

B. ________ I have not filed a charge.

11. A. ________ I received a Notice of Right-to-Sue letter from the Equal Employment Opportunity Commission on ______________ (date). (I have attached a copy of the Notice of Right-to-Sue which is incorporated into this complaint.)

B. ________ I have not received a Notice of Right-to-Sue letter from the Equal Employment Opportunity Commission.

12. State what relief you are seeking from the Court. If you are seeking a monetary award (back pay or damages), state the amount you are seeking. If you are seeking injunctive relief (an order by the Court) issued against the defendant(s) summarize what should be in the order.

a complete ~~co~~ recovery of legal fees and the normal package for a good eployee that has serve Kaiser for fourteen years

10/3/13
Date

Beverly Carter
Signature of Plaintiff

Address: 748 Peninsula overlook Dr.
HAMPTON, GA. 30228

Telephone: 678-358-7605

Linda S Boatright/GA/KAIPERM

04/27/2012 04:00 PM

To Beverly Carter/GA/KAIPERM
cc Jaleynne N Raymond/GA/KAIPERM
Subject Re: Lilian BacianLink

Beverly,
I am in receipt of your April 20th e-mail; I along with Jaleynne were in an off site meeting on that day and since then we have been involved in yet another off site; we both returned to our offices today, 4/27. I had asked Jaleynne while we were together to follow up with you once we returned; she gave me feedback based on the conversation she had with you.

Let me begin with my reiteration of the e-mail I sent you on 3/19/12 @ 7:55 PM wherein I told you, among other things that we would address your concerns upon your return from leave. I went on to say that the most important thing that you needed to do was to take care of yourself. I have been in contact with Mike Wathen and we are still prepared to talk with you concerning your performance review once you return from leave.

I am very troubled by the allegations below because you have now raised the issue of race and age; allegations I have not heard during any and all of the many discussions that we've had and that you've had with others concerning your issues with your performance review. The allegation that Lilian, with Kaiser behind her, wants to get rid of you is even more alarming given that has never been the case and Kerry Kohnen, our President took time to respond to you in writhing stating, among other things the following...

While I recognize that receiving this type of feedback may be hard, and as you've stated, this is the first unfavorable feedback you've received in your 13 years with Kaiser, I would ask that you reconsider what has been said and be open and listen to the feedback as I believe it is intended to drive a positive outcome and assist in your development.

We have and will continue to try and resolve your concerns regarding your performance review and let me be very clear, your race nor your age have and never will be factors related to your performance.

Finally as it relates to the matter of your FMLA, a topic that Jaleynne discussed with you today. As I understand it, you, not Kaiser have failed to properly process the FMLA paper work so our carrier, again not Kaiser has not approved the leave. This is an administrative matter that I would urge you to take care of to ensure that you receive those benefits your are rightfully eligible for. Beverly, you are a manager and as such,you have personally worked with employees who have experienced these very same types of issues. We have with other employees, as we have with you offered the personal leave option when there have been issues in getting the FMLA process started correctly. If you want us to now give you PTO while you work through the processing of the paper work, we can also do that; our actions have been congruent with how we've managed all employees in a like/similar situation as yours. You need only tell us if you want us to now

HARRIS, ANANDA

From: Beverly Carter [BECARTER@CENTENE.COM] on behalf of Beverly Carter
Sent: Monday, July 01, 2013 7:28 PM
To: "ananda.harris@eeoc.gov" <ananda.harris@eeoc.gov>
Subject: Requesting a Notice of Right to Sue Kaiser Permanente

Importance: High

Hello M's Ananda Harris,

I would like to request a notice of right to sue (case # 410-2012-05229) Kaiser Permanente. Paulette Adams-Bradham will be the attorney persuading this case on my behalf. I will be contacting you tomorrow with M's Paulette contact information so you can send her a copy of my file.

Thank you for your support.

Thanks,

Beverly Carter, RN, BS
Manager Atlanta Outbound Call Center
NurseWise/Nurse Response
Centene Corporation
Toll Free 1-800-225-2573 ext 2033
Direct (314) 725-4706 ext. 29033
Cellular (404) 416-2627
becarter@centene.com
www.nurseresponse.com

Care. Right. Now.™
Putting great care into giving great care!™

CONFIDENTIALITY NOTICE: This communication contains information intended for the use of the individuals to whom it is addressed and may contain information that is privileged, confidential or exempt from other disclosure under applicable law. If you are not the intended recipient, you are notified that any disclosure, printing, copying, distribution or use of the contents is prohibited. If you have received this in error, please notify the sender immediately by telephone or by returning it by return mail and then permanently delete the communication from your system. Thank you.

EEOC Form 161-B (11/09)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE *(ISSUED ON REQUEST)*

To: **Beverly Carter**
748 Peninsula Overlook Drive
Hampton, GA 30228

From: **Atlanta District Office**
100 Alabama Street, S.W.
Suite 4R30
Atlanta, GA 30303

☐ *On behalf of person(s) aggrieved whose identity is CONFIDENTIAL (29 CFR §1601.7(a))*

EEOC Charge No.	EEOC Representative	Telephone No.
410-2012-05299	**Ananda L. Harris, Investigator**	**(404) 562-6849**

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

[X] More than 180 days have passed since the filing of this charge.

[ ] Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

[X] The EEOC is terminating its processing of this charge.

[ ] The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

[X] The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice.** Otherwise, your right to sue based on the above-numbered charge will be lost.

[ ] The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

JUL 08 2013

Enclosure(s)

Bernice Williams-Kimbrough,
District Director

(Date Mailed)

cc:

Troy Valdez
Valdez Noor Todd & Doyle, LLP
116 New Montgomery, Suite 210
San Francisco, CA 94105

U.S. Equal Employment Opportunity Commission
Atlanta District Office

100 Alabama Street, S.W.
Suite 4R30
Atlanta, GA 30303
(404) 562-6887
(404) 562-6801 TTY
(404) 562-6909 FAX

Beverly Carter
748 Peninsula Overlook Dr.
Hampton, GA 30228

Re: FOIA No.: 4102013184855
EEOC CHARGE # 410-2012-05299

July 09, 2013

Dear Ms. Carter:

Your request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received by the Atlanta District Office on July 09, 2013 is assigned the above FOIA number.

[X]EEOC will issue a determination on your request on or before August 06, 2013. FOIA and EEOC regulations provide 20 working days to issue a determination on a request, not including Saturdays, Sundays and federal holidays. In unusual circumstances, EEOC may extend the 20 working days by 10 additional working days or stop processing your request until you respond to our request for fee or clarifying information. Should EEOC take an extension or stop processing your request, notice will be issued prior to the expiration of the 20 working days.

[ ] Your unperfected request under the FOIA was received on July 09, 2013. The request will **not** be assigned for processing until it is perfected by the submission to this office a copy of a "Filed" marked court Complaint on the above charge. Failure to submit a copy of the "Filed" marked Complaint within 30 days of your receipt of this letter may result in the administrative withdrawal of your request. Upon receipt of the "Filed" marked Complaint, your request will be perfected and processing will begin. At that time, EEOC will issue a letter acknowledging receipt of your perfected FOIA request, providing the name of the person who will be processing your request, and the date by which you may expect to receive a response from me. You may contact the Requester Service Center for status updates on your FOIA request or for FOIA information by telephone to (202) 663-4500, by fax to (202) 663-4679, by e-mail to FOIA@eeoc.gov, or by mail to the EEOC, Requester Service Center, 131 M Street NE, Suite 5NW02E, Washington, DC 20507. Additionally, if you submitted your FOIA request on line, you may monitor its status at https://egov.eeoc.gov/foia/.

Cordially,

Bernice W. Kimbrough

Bernice Williams-Kimbrough
District Director

U.S. Equal Employment Opportunity Commission
Atlanta District Office

100 Alabama Street, S.W.
Suite 4R30
Atlanta, GA 30303
(404) 562-6887
(404) 562-6801 TTY
(404) 562-6909 FAX

July 12, 2013

Beverly Carter
748 Peninsula Overlook Dr.
Hampton, GA 30228

Re: FOIA No.: 4102013184855
EEOC CHARGE # 410-2012-05299

Dear Ms. Carter:

Your Freedom of Information Act (FOIA) request, received in this office on July 09, 2013 has been processed. Our search began on July 09, 2013. All agency records in creation as of July 09, 2013 are within the scope of the EEOC's search for responsive records. The paragraph(s) checked below apply:

[ ] Your request does not reasonably describe the records you wish disclosed or [ ] No records fitting the description of the records you seek disclosed exist or could be located after a thorough search. The remainder of your request is:

[ ] Your request is granted.

[ ] Your request is denied pursuant to the subsections of the FOIA indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.

[X] Your request is granted in part and denied in part. Portions not released are being withheld pursuant to the subsections of the FOIA indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.

[ ] You must send a check for $[ ] made payable to the United States Treasurer by mail to the above address. Manual search and review time is billed per quarter hour based on the personnel category of the person conducting the search. Fees for search services range from $5.00 per quarter hour to $20.00 per quarter hour. Direct costs are billed for computer searches and in certain other circumstances. Photocopying is billed at $.15 per page. 29 C.F.R. §1610.15. The attached Comments page will further explain any direct costs assessed. The fee has been computed as follows:

- [ ] Commercial use requests: [ ] pages of photocopying; [ ] quarter hour(s) of [ ] review time; and [ ] quarter hour(s) of [ ] search time; Direct costs are billed in the amount of [ ] for [ ].

- [ ] Requests by educational or noncommercial scientific institutions or representatives of the news media: [ ] pages of photocopying. The first 100 pages are provided free of charge.

- [ ] All other requests: [ ] pages of photocopying and [ ] quarter hour(s) of [ ] search time. Direct costs are billed in the amount of [ ] for [ ]. The first 100 pages and 2 hours of search time are provided free of charge.

[ ] The disclosed records are enclosed. No fee is charged because the cost of collecting and processing the chargeable fee equals or exceeds the amount of the fee. 29 C.F.R. § 1610.15(d).

[ ] The disclosed records are enclosed. Photocopying and search fees have been waived pursuant to 29 C.F.R. § 1610.14.

[ ] You may appeal this decision by writing within thirty days of receipt of this letter to the Office of Legal Counsel, FOIA Programs, Equal Employment Opportunity Commission, 131 M Street, N.E., Suite 5NW02E, Washington, D.C. 20507. Your appeal will be governed by 29 C.F.R. § 1610.11.

[ ] See attached Comments page for further information.

Sincerely,

Bernice Williams-Kimbrough
District Director

Applicable Sections of the Freedom of Information Act, 5 U.S.C. § 552(b):

[ ] (2)
[ ] (3) (A)(i)
[ ] Section 706(b) of Title VII
[ ] Section 709(e) of Title VII
[ ] Section 107 of the ADA
[ ] Section 207 of the GINA
[ ] (3)(A)(ii)
[ ] 41 U.S.C. §253b(m) of the National Defense Authorization Act
[ ] (4)
[X] (5)

[ ] (6)
[ ] (7)(A)
[ ] (7)(B)
[ ] (7)(C)
[ ] (7)(D)
[ ] Other (see attached)

Documents Withheld Pursuant to the Fifth Exemption to the FOIA.

Investigator's Recommendation for closure, along with closure code; this information is both pre-decisional and deliberative and reflects the investigator's analysis. Documents reflecting the agency's charge processing codes, both general and specific to the charge. The information represents the investigator's pre-decisional thoughts and analysis regarding the processing of the charge. (Pages 1) (Dated 07/08/13).

Exemption (b)(5) to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(5) (2006), amended by OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, permits withholding documents that reflect the analyses and recommendations of EEOC personnel generated for the purpose of advising the agency of possible action. This exemption protects the agency's deliberative process, and allows nondisclosure of "inter-agency or intra-agency memorandums or letters which would not be available to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). The exemption covers internal communications that are deliberative in nature. National Labor Relations Board v. Sears, Roebuck & Co., 421 U.S. 132 (1975); Hinckley v. United States, 140 F.3d 277 (D.C. Cir. 1998); Mace v. EEOC, 37 F.Supp. 2d 1144 (E.D. Mo. 1999). The purpose of the deliberative process privilege is to "allow agencies freely to explore alternative avenues of action and to engage in internal debates without fear of public scrutiny." Missouri ex. rel. Shorr v. United States Corps of Eng'rs., 147 F.3d 708, 710 (8th Cir. 1998).

Records may be withheld under this exemption if they were prepared prior to an agency's decision, Wolfe v. Department of Health and Human Services, 839 F.2d 768, 775, 776 (D.C. Cir. 1988) (en banc) and for the purpose of assisting the agency decision maker. First Eastern Corp. v. Mainwaring, 21 F.3d 465,468 (D.C. Cir. 1994). See also, Greyson v. McKenna & Cuneo and EEOC, 879 F. Supp. 1065, 1068, 1069 (D. Colo. 1995). Records may also be withheld to the extent they reflect "selective facts" compiled by the agency to assist in the decision making process. A. Michael's Piano, Inc. v. Federal Trade Commission, 18 F.3d 138 (2d Cir. 1994). An agency may also withhold records to the extent that they contain factual information already obtained by a requester through prior disclosure. See Mapother, Nevas, et al. v. Dept of Justice, 3 F.3d 1533 (D.C. Cir. 1993).

From: "Jeanne Bynum Hipes" <counsel@hipeslaw.com>
To: "BARRY BROWN" <BARRY.BROWN@EEOC.GOV>
Date: 7/16/2012 4:38 PM
Subject: EEOC Charge by Ms. Bevery Carter v. Kaiser Permanente
Attachments: Carter Charge of Discrimination- signed 2012-07-16.pdf; Carter Statement in Support of Charge of Discrim-signed 2012-07-16.pdf

Mr. Brown,

Enclosed for filing and processing, please find the Charge of Discrimination and supporting Statement by Ms. Beverly Carter.

As this law firm is representing Ms. Carter, please direct all communications to me.

Thank you so much,

Jeanne

Jeanne Bynum Hipes
Managing Trial Counsel
HIPES LAW LLC
2475 Northwinds Parkway, Suite 200
Alpharetta, Georgia 30009
Main: (678) 867-7006
Fax: (770) 783-5010
Email: Counsel@HipesLaw.com
Employment and Business Litigation; Non-Compete and Employment Contracts
Please visit our website at www.HipesLaw.com.

NOTICE: This message is sent by a law firm and may contain information that is privileged or confidential. It is intended only for the use of the person(s) named above. If you received this transmission in error, please immediately notify the sender by reply e-mail and delete the message and any attachments. Unless you are the intended recipient of this communication, do not rely on its content. DISCLOSURE UNDER IRS CIRCULAR 230: Unless expressly stated otherwise, nothing contained in this communication is intended or written to be used, nor may it be relied upon or used, (1) by any taxpayer for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or any applicable state tax code, and/or (2) by any person to support the promotion or marketing of or to recommend any federal or state tax transaction(s) or matter(s) addressed in this communication. Any taxpayer should seek independent tax advice with respect to any federal or state tax transaction or matter addressed herein.

EEOC Form 5 (11/09)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

☐ FEPA

☒ EEOC 410-2012-05299

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.)		Home Phone (Incl. Area Code)	Date of Birth
Beverly Carter	Atlanta, Georgia	(770) 473-7805	06/24/1960

Street Address	City, State and ZIP Code
748 Peninsula Overlook Drive	Hampton, Georgia 30228 represented by Jeanne Bynum Hipes, Esq. 678 867 7006

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (*If more than two are named, list under PARTICULARS below.*)

Name	No. Employees, Members	Phone No. (Incl. Area Code)
Kaiser Permanente c/o Jonathan Saperstein, Esq. (counsel for Kaiser)	thousands	(301) 816-7225

Street Address	City, State and ZIP Code
Kaiser Foundation Health Plan of Georgia, Inc. Nine Piedmont Center 3495 Piedmont Road, NE Atlanta, GA 30305-1736	

Name	No. Employees, Members	Phone No. (Incl. Area Code)

Street Address	City, State and ZIP Code

DISCRIMINATION BASED ON (*Check appropriate box(es).*)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN

☒ RETALIATION ☒ AGE ☒ DISABILITY ☐ GENETIC INFORMATION

☐ OTHER (*Specify*)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest	Latest
pre 12-2011	07-09-12

☐ CONTINUING ACTION

THE PARTICULARS ARE (*If additional paper is needed, attach extra sheet(s)*):

Please see attached.

RECEIVED
JUL 16 2012
EEOC-ATDO

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Beverly Carter (signature)

Jul 16, 2012 — Date

Beverly Carter — Charging Party Signature

NOTARY – *When necessary for State or Local Agency Requirements*

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(*month, day, year*)

RECEIVED
JUL 16 2012
EEOC-ATDO

STATEMENT IN SUPPORT OF EEOC CHARGE MADE

BY BEVERY CARTER

Ms. Carter is African American, age 52, and has worked for Kaiser Permanente Insurance Company for approximately thirteen and a half years. She began her career there as a Clinical Supervisor in June 1998. She worked her way up to the position as Manager of Call Center Operations, where she was responsible for managing over 90 employees. She made $86,000 per year. Throughout her employment, Ms. Carter was an exceptionally hardworking, exceptionally competent, knowledgeable and loyal employee. As indicated in a deluge of comments in her performance reviews over these 13+ years, Ms. Carter was an excellent leader in Kaiser's ranks, and has always had a unique ability to "read" people, including both her staff members and others. Year after year after year, she received very positive comments from her supervisors and earned overall Exceeds Expectations performance ratings almost always. Just a few of these comments are excerpted below:

- Integrity: Beverly confronted several challenging issues while in the acting MHCO role. She worked extremely hard to do whatever was in her sphere of influence to address and handle situations appropriately....As a Clinical Supervisor, Beverly's overall performance exceeds expectations. As the co-leader of the Crescent Center team, she can be very proud of her/their achievements. She continues to be a strong resource to the new MHCO at Crescent, to the other Supervisors at CC and to the ObGyn Leadership Team. (2003—Overall Rating: Exceeds Expectations.)

- Beverly is a true asset to the Ob/Gyn department and organization. Her positive attitude and willingness to take on extra assignments for the good of the department is very much appreciated. **Beverly has an excellent ability to read people** and uses those skills to manage more effectively. Beverly manages firmly but fairly. (2005—Overall Rating: Exceeds Expectations).

- Beverly, you develop and maintain very positive working relationships both inside and outside of the department. Continues to do an excellent job as the liaison between the department and the call center. You are very customer oriented. Demonstrates a high degree of integrity. Shows consistency in words and actions. Beverly's work is of high quality and will often times...stay late to ensure that work is complete. Beverly is committed to her role, the department and the organization. (2007—Overall Rating: Exceeds Expectations.)

- Beverly, you have a positive presence and great progress is noted in your delivery of information. Demonstrates emotional awareness of your audiences when communicating. Keeps the team updated of department and regional initiatives.

Maintains effective working relationships both inside and outside of the department. Very mature. Makes sound decisions. Involves the team, lead MD and/or manager as appropriate for decisions. (2008—Overall Rating: Exceeds Expectations.)

- Beverly promotes change and has been a great team player in setting up this Call Center and also in changing the behaviors. She is committed to the organization and changes we are all going thru to ensure success going forward. Year End Assessment: Beverly is always coming up with new ideas to improve performance. She accepts and champions change to meet organizational needs. (2010-Year End by Lillian Bacian—Successful Performance).

The above is representative of her documented performance all the years she has been at Kaiser--until, that is, she became subjected to the supervision of Lillian Bacian, an under age 40 Mexican woman, who arrived at Kaiser a year or so ago.

While Ms. Bacian from the beginning seemed to view and treat Ms. Carter differently, and more negatively than, other similar employees, Ms. Bacian, as a new employee with Kaiser, could not deny Ms. Carter's excellent performance, as indicated in the last bullet point above. Notwithstanding, Ms. Carter, who has a documented ability to "read" people (see above bullet points) could tell she was being treated differently and was at a loss to determine the reason for the different, inexplicably hostile, treatment toward her by Ms. Bacian. This negative treatment became progressively worse over time. Her mid-year review by Ms. Bacian in August 2011, while not documenting the "Exceeds Expectations" for many or most categories, as Ms. Carter was used to, nevertheless rated Ms. Carter's Performance as "Successful." This "Successful" performance was documented despite an inexplicably hostile supervisor, which made Ms. Carter's difficult job even more difficult. Ms. Bacian managed to make a few positive comments about Ms. Carter in mid 2011, e.g.:

- Beverly supports the team efforts by encouraging and influencing them.
- She has learned and [developed her] call center skills well.
- Beverly makes timely decisions and takes action as necessary.
- Beverly recognizes nurses for their excellent performance.

Despite this "Successful" review, Ms. Carter could not help but continue to notice the curt, derogatory, hostile way Ms. Bacian treated her. Even other employees independently noticed the different and disrespectful way Ms. Bacian treated Ms. Carter in front of others, e.g., her shaking her head and objecting frequently whenever Ms. Carter spoke in meetings; her allowing nurse supervisor, Jill Mull, a white woman comparable to Ms. Carter (except that she managed only 20 employees compared to Ms. Carter's 90), privileges with her staff prohibited to Ms. Carter (e.g., allowing staff to work from home against policy), and other behaviors clearly demonstrating discriminatory disrespect and a lack of support for this devoted older African-American, 13-year Kaiser veteran.

That something was terribly wrong became clear when Ms. Carter sat down for her 2011 review with Ms. Bacian. While, since Ms. Bacian arrived, Ms. Carter clearly suffered inferior and hostile treatment by Ms. Bacian in comparison to similarly situated white women employees--treatment that affected the terms and conditions of Ms. Carter's employment--neither Ms. Bacian nor anyone else had ever complained about Ms. Carter's work performance, which had been nothing short of stellar her entire Kaiser career. Even Ms. Bacian seemed to, at least initially, acknowledge that much during the two reviews Ms. Bacian conducted with Ms. Carter during Ms. Bacian's early tenure at Kaiser. However, in Ms. Bacian's final review of Ms. Carter for her 2011 performance—for the first time ever—Ms. Carter received a "Needs Improvement" rating. Worse, Ms. Bacian apparently "took back" the positive mid-year review, saying she should have said negative things in that review. Ms. Carter was so shocked, she initially thought Ms. Bacian was joking. She quickly found out, however, that this was not some cruel joke, and was astonished at the sudden deluge of "needs improvement" items on her rating sheet, when not a corrective word had ever been spoken to her by Ms. Bacian. Finally, Ms. Carter, stunned at the negative review, asked Ms. Bacian, "What did I do right?" Incomprehensibly, Ms. Bacian declared "***Nothing***." Incredulous, Ms. Carter asked Ms. Bacion what she was saying—"I did *nothing* right?" Ms. Bacian confirmed, "**Nothing**." Unaccountably, it was true. As a supervisor, Ms. Bacian's declared view of an older, African American 13-year always-before-stellar employee, was and is that Ms. Carter did and can do **nothing** right. Still in shock, Ms. Carter asked Ms. Bacian, "So you want me to leave?" Ms. Bacian said ***nothing*** in response, clearly implying that Ms. Carter's conclusion that Ms. Bacian wanted her to leave was correct.

Ms. Carter has diligently attempted ever since this troubling review to determine the basis of it. Apparently, there was a survey of management by the employees, which may have contained information relevant to this inquiry. Notwithstanding repeated requests for the results of this survey, it has been denied to Ms. Carter. Ms. Carter sought assistance and insight from Linda Boatright, as well as Mike Wathen (Ms Bacion's supervisor) and even the president of the company, Kerry Kohnen. Yet, not one person has provided an adequate explanation for Ms. Bacian's hostile review, and at least one person seemingly became irritated that Ms. Carter would bring the matter up to higher-level officials. Given these circumstances, it appears the only reasonable explanation for this conduct, is Ms. Bacian's racially and age-based discriminatory attitude and actions toward Ms. Carter, which have been supported by Kaiser management. Even when Ms. Carter finally was forced to hire counsel to determine the reason for her ill treatment, still no reason has been offered.

Whenever a supervisor of one race treats persons of another race appreciably worse than similarly situated persons of a different race, we become very concerned that discrimination may be taking place in violation of Title VII of the Civil Rights Act of 1964 (Title VII), and 42 U.S.C. §1981. Similarly, when a much younger manager inexplicably treats an older direct report disrespectfully, we become alarmed that perhaps the Age Discrimination in Employment Act is being violated. Having attempted to gain insight for months now, and having experienced what seems to be retaliation by Kaiser, we are now convinced that Kaiser has violated all of the the above referenced laws. Ms. Bacian is Mexican and under 40. Ms. Carter is African American and 52. There seems to be no other reason for the despicable treatment Ms. Bacian has advanced toward the exceptionally performing Ms. Carter.

This concern about discrimination, whether racial or age-based, has been solidified by the way Ms. Carter has been treated in attempting to take legally-required FMLA leave to deal with serious and painful foot surgery. Ms. Carter has practically never taken Personal Time Off ("PTO")—except for a few weeks in February 2010, when her house burned to the ground and she lost all her personal possessions. Despite Ms. Carter's relentless commitment to daily attending to her duties at Kaiser, Ms. Bacian and possibly others have acted to interfere with Ms. Carter's FMLA leave by terrorizing Ms. Carter into fearing for her job—when she was unable physically to come back to work—and by telling others at Kaiser that she expected Ms. Carter to resign and that she "did not know why Ms. Carter was still employed." Although Ms. Carter has plenty of PTO, gave notice of her impending foot surgery, advised all concerned that her doctor had directed her to stay home from work for six weeks from March 20th to May 7th, and repeatedly requested that her doctor fill out forms demanded by Kaiser and its short-term disability carrier, Ms. Carter received a call from Ms. Bacian declaring that, even though her doctor has directed her to stay home first through May 7th, then through May 30th, Ms. Bacian would not be approving leave past May 1st and inferred Kaiser could not hold her job past then. It was again clear that Kaiser, through Ms. Bacian, was trying to get Ms. Carter to leave her job and intentionally inflicting on Ms. Carter, who, helpless in her post-surgery condition and with her doctor out of town, emotional distress to ensure her departure.

Following those instances of harassment, Kaiser deliberately refused to authorize Ms. Carter's doctor's urgent request for a bone stimulator to enable Ms. Carter to timely heal from her surgery. This appears to be part of the discriminatory harassment and retaliation for a black, older woman even daring to take FMLA leave, and daring to take off time from work in her disabled condition.

Shocked and distressed at yet additional instances of unfair, discriminatory treatment by Kaiser and Ms. Bacian, while trying to recover from painful surgery, Ms. Carter has since then attempted to get to the bottom of why Kaiser would treat her this way after her long, successful career there. She discovered that HR said it sent her a letter informing her that Kaiser had not received the information it needed from the doctor. Ms. Carter never received any such letter, and apparently, if such a letter was actually sent, it was not sent certified or in any manner in which Ms. Carter was certain to get it or in which Kaiser could prove it was sent. No one ever called Ms. Carter to advise her that more medical documentation was needed. Rather, Kaiser declared it planned to deny her required FMLA for the time the doctor advised her to remain home. Kaiser, instead of assisting its long-term employee while she was suffering from surgery as they would a white employee, added to her suffering by causing her to fear for her job and her income, by failing to call her if it needed information it had not received, and by treating her generally in a way that makes it clear that it wanted Ms. Carter to leave by discriminating against her, interfering with her FMLA, making her disability worse by denying her urgently needed medical equipment, and intentionally causing her emotional distress. Ultimately, on July 9, 2012, Ms. Carter was constructively forced her to terminate her employment before incurring irreparable harm. It has been utterly clear since Ms. Carter's end of 2011 review on January 18, 2012 that Ms. Bacian wanted her to quit. To this day, Kaiser has failed to approve the bone stimulator required for Ms. Carter's recovery.

Ms. Carter has suffered significantly from Ms. Bacian's ill treatment and evident, very public, disrespect; Kaiser's support for Ms. Bacian's ill treatment of her; the FMLA interference and threats inferring that she could lose her job if she did not disobey her doctor's orders and return to work prior to her medical release; and the retaliation she has suffered for taking medically necessary leave and being disabled as a result of Kaiser's refusal to provide her the treatment necessary to enable her to return to work to her physically demanding, full-time job. In addition to the pain of her foot surgery, Kaiser's actions have made Ms. Carter physically ill with severe headaches, nausea, crying, stomach aches, exhaustion and mental severe anguish. They have forced Ms. Carter to seek counseling, and take other measures to cope with the treatment inflicted upon her.

In view of this, and the discrimination and FMLA laws that are implicated in Ms. Carter's treatment, Ms. Carter respectefully requests the EEOC to file her charge and investigate and confirm the conduct and allegations referenced herein; confirm that same violate applicable Federal and state laws; and either accept for prosecution or choose for conciliation this case in order to rectify the harm done by Kaiser to Ms. Carter.

Prepared by:

Jeanne Bynum Hipes
Managing Trial Counsel
Hipes Law LLC
2475 Northwinds Parkway, Suite 200
Alpharetta, GA 30009
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FAX: 770-783-5010
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SIGNATURE CONTINUED ON FOLLOWING PAGE

I affirm that the facts contained in the foregoing statement are true and correct.

This 16 day of July 2012.

Beverly Carter

Beverly Carter

EEOC FORM 131 (11/09)

U.S. Equa.. Employment Opportunity Comi..ission

Attn: Human Resources Manager
KAISER PERMANENTE
3495 Piedmont Road, N.E.
9 Piedmont Center
Atlanta, GA 30305

PERSON FILING CHARGE

Beverly Carter

THIS PERSON *(check one or both)*

[X] Claims To Be Aggrieved

[ ] Is Filing on Behalf of Other(s)

EEOC CHARGE NO.

410-2012-05299

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

This is notice that a charge of employment discrimination has been filed against your organization under:

[X] Title VII of the Civil Rights Act (Title VII) [ ] The Equal Pay Act (EPA) [X] The Americans with Disabilities Act (ADA)

[X] The Age Discrimination in Employment Act (ADEA) [ ] The Genetic Information Nondiscrimination Act (GINA)

The boxes checked below apply to our handling of this charge:

1. [X] No action is required by you at this time.
2. [ ] Please call the EEOC Representative listed below concerning the further handling of this charge.
3. [ ] Please provide by a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
4. [ ] Please respond fully by to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
5. [ ] EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by
   to
   If you DO NOT wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Barry E. Brown,
Intake Supervisor

EEOC Representative

Telephone **(404) 562-6833**

Atlanta District Office
100 Alabama Street, S.W.
Suite 4R30
Atlanta, GA 30303
Fax: (404) 562-6905

Enclosure(s): [ ] Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

[X] Race [ ] Color [ ] Sex [ ] Religion [ ] National Origin [X] Age [X] Disability [ ] Retaliation [ ] Genetic Information [ ] Other

ISSUES: Constructive Discharge, Harassment, Intimidation, Terms/Conditions

DATE(S) (on or about): EARLIEST: 01-01-2011 LATEST: 07-09-2012

A signed copy of the charge along with information for responding will be mailed in approximately 45 days.

Date	Name / Title of Authorized Official	Signature
July 23, 2012	**Bernice Williams-Kimbrough,** **District Director**	Bernice W. Kimbrough

EEOC FORM 131 (11/09)

U.S. Equal Employment Opportunity Commission

Attn Human
Resources Manager
KAISER PERMANENTE
3495 Piedmont Road, N.E.
9 Piedmont Center
Atlanta, GA 30305

PERSON FILING CHARGE

Beverly Carter

THIS PERSON *(check one or both)*

[X] Claims To Be Aggrieved

[ ] Is Filing on Behalf of Other(s)

EEOC CHARGE NO.
410-2012-05299

NOTICE OF CHARGE OF DISCRIMINATION

(See the enclosed for additional information)

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[X] Title VII of the Civil Rights Act (Title VII) [ ] The Equal Pay Act (EPA) [X] The Americans with Disabilities Act (ADA)

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3. [ ] Please provide by a statement of your position on the issues covered by this charge, with copies of any supporting documentation to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
4. [X] Please respond fully by **05-SEP-12** to the enclosed request for information and send your response to the EEOC Representative listed below. Your response will be placed in the file and considered as we investigate the charge. A prompt response to this request will make it easier to conclude our investigation.
5. [ ] EEOC has a Mediation program that gives parties an opportunity to resolve the issues of a charge without extensive investigation or expenditure of resources. If you would like to participate, please say so on the enclosed form and respond by
to
If you DO NOT wish to try Mediation, you must respond to any request(s) made above by the date(s) specified there.

For further inquiry on this matter, please use the charge number shown above. Your position statement, your response to our request for information, or any inquiry you may have should be directed to:

Lenore Martin,
Supervisory Investigator

EEOC Representative

Telephone **(404) 562-6880**

Atlanta District Office
100 Alabama Street, S.W.
Suite 4R30
Atlanta, GA 30303
Fax: (404) 562-6905

Enclosure(s): [X] Copy of Charge

CIRCUMSTANCES OF ALLEGED DISCRIMINATION

[X] Race [ ] Color [ ] Sex [ ] Religion [ ] National Origin [X] Age [X] Disability [ ] Retaliation [ ] Genetic Information [ ] Other

See enclosed copy of charge of discrimination.

Date	Name / Title of Authorized Official	Signature
August 3, 2012	**Bernice Williams-Kimbrough,** **District Director**	Bernice W. Kimbrough (signature)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Atlanta District Office

100 Alabama Street, SW, Suite 4R30
Atlanta, GA 30303
TTY (404) 562-6801
FAX (404) 562-6909/6910

August 15, 2012

EEOC Charge No: 410-2012-05299

Ms. Beverly Carter
748 Peninsula Overlook Drive
Hampton, GA 30228

Dear Ms. Carter,

This letter is to inform you that your charge has been recently assigned to me for investigation.

The amount of time required for me to obtain, review, and analyze evidence will depend on the complexity of the charge, the number of charges assigned to me and the completeness of the information received from you and the Respondent.

Due to my heavy workload and scheduled investigations out in the field, I may not always be immediately available to receive or respond to calls or other communications. However, I will return your call, and provide any and all relevant information regarding the investigation of your charge, at my earliest convenience.

You may submit any relevant information and/or documentation in support of your allegations to me at the above referenced address. Please keep me informed of any changes to your address and/or telephone number.

Please direct all correspondence and questions regarding this charge to my attention, utilizing the above reference charge number. I can be reached at (404) 562-6849 between the hours of 8:30 a.m. to 4:00 p.m. Monday thru Friday.

Sincerely,

/Signed/
Ananda L. Harris
Investigator

KAISER PERMANENTE

2011 Performance Review Document
01/01/2011 - 12/31/2011

Employee Name: Beverly Carter	**Employee ID #:** 00457948
Job Title: Mgr, Call Center Advice Nurses	**Department:** Call Center Advice
Document Status: Manager's Review	**Manager:** Lilian Bacian

Goals

Affordability

Description: Reduction of outside medical expense and ER utilization by implementing KP on call s full roll out.

Complete roll out of KP On Call protocols by 4th Quarter

Ambulatory Med by 4/2011

Pediatrics by 7/2011

OB/GYN by 10/2011

Measurement: Decrease in 911 and ED dispositions

Reduction in ER visits per 1000

Weight:	20%	**Due Date:**	2011-12-31
Goal Category:	Financial Perf/Efficiency		

Employee Rating:	Excellent Performance	**Manager Rating:**	Successful Performance

Employee Comments:

Since the implementation of the MD Call Center pilot the organization has seen a reduction in ER utilization. The Advice Nurses consistently consult with Dr. Davis regarding Emergent category to determine appropriate disposition to core ER vs. office evaluation. The Call Center Leadership team consistently supports the MD pilot by participating in the routine conference calls to discuss area of opportunities and cascading the information to the Advice Nurses timely. We have also successfully rolled out KPOC system base protocol to 85% of the Advice Nurses to include reinforcement training to ensure appropriate disposition of members. The MD pilot continues to progress well with a decision made to hire additional MD support for the advice call center.

Year-End - The Call Center MD Support is going very well. The Advice Nurses consistently consult with MD regarding Emergent category to determine appropriate disposition to core ER vs. office evaluations. Peds rolled out with KPOC on target. OB/GYN is on target to include the completion of pre and post training.

Manager Comments:

Ambulatory Medicine rolled out by target. Peds on target. Close attention needs to be paid to the guideline/disposition score (Assessment 2) of the quality audit and the KPOC guideline usage reports.

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Year-end: Even though KP OnCall protocols were rolled out by 4th quarter this year to Ambulatory med, pediatrics and GYN advice nurses; KPOC reports show that not all trained nurses are using the KPOC protocols consistently. No decrease in ER utilization this year; will need to evaluate protocol usage in 2012 and guideline/disposition scores.

Quality (Clinical)

Description: Improve Quality Scores to 95%

Coaching package to RNs not meeting goal.

Group training for identified overall improvements.

Measurement: Quality audits 2/ wk.

Scorecard review

Quality Monitoring score > or = 95%

Weight:	20%	**Due Date:**	2011-12-31
Goal Category:	Quality		

Employee Rating:	Successful Performance	**Manager Rating:**	Successful Performance

Employee Comments:

This year has been quite challenging in the area of quality monitoring with the transfer of our seasoned Quality Manager in December 2010, hired a replacement Quality Manager in January 2011 then our DT Quality Manager went out on leave in February 2011. However, we are currently up to date with the quality monitoring, audits and coaching packages. 1st Quarter average quality scores for HTC and DT was 95%. April and May average quality scores for HTC and DT was 96%. Currently all WAH nurses are meeting metrics. This would not have been possible without the close partnership of the Quality Manager and Clinical Supervisors.

Year - End -The current MTD quality scores for HTC and DT combined is 96.56% with the Guideline/Disposition scores combined at 96.32%.

Manager Comments:

96.14% was the quality score for both HTC and DT combined.

Year End: Quality Goals met at both HTC and DT.

Quality (Service)

Description: Improve member s satisfaction

Coaching for RNs not meeting metrics.

Implementation of No Call Outs program.

Measurement: Decrease in AHT and NR time.

Attendance

Supervisor scorecard review

TSF > 80%

Name: Beverly Carter / Emp#: 00457948 / Title: Mgr, Call Center Advice Nurses

ASA < 30 sec

Abandonment rate < 5%

Weight:	20%	**Due Date:**	2011-12-31
Goal Category:	Service		

Employee Rating:	Successful Performance	**Manager Rating:**	Performance Needs Improvement

Employee Comments:

HTC and DT are current with their coaching packages for nurses not meeting metrics. Now that we have real time monitoring support, the Supervisors will be scheduling one on one time with the nurses to monitor area of improvement and opportunity. We have also implemented the No Call outs program for the month of Jan-May with several employees receiving recognition for not calling out. Since the implementation of KPOC the nurses AHT has been between 8&10minutes. This was expected to allow the nurses adequate time to properly triage and disposition members per guidelines. Since the implementation of KPOC, it has been a challenge in meeting our TSF. However since we implemented more flexible schedule to cover the high peek times, we are seeing improvement in this area.

Year - End - We are slightly short with meeting the MTD TSF of 80%; currently at 76.50TSF but have shown significant improvement in this area. We are on target with meeting our ASA, which is currently at: 52sec and Abandonment rate at 3.63%. We have implemented Zip tones which will assist us in the area.

Manager Comments:

We have not been able to meet metrics this year. We will work on a plan to meet metrics this second half of the year.

Year End: We have not met TSF this year. ASA and abandonment rate was met in the 4th quarter of 2011. Close attention to schedules to include daily staffing, breaks, lunches and not ready percentage will need to be a priority in 2012.

Performance Culture

Description: UBT s at level 3 or above.

Work with UBT s to move to level 3 or above.

Measurement: UBT monitoring report at target level

Complete co-lead training by end 2nd quarter

UBT goals achieved

Weight:	20%	**Due Date:**	2011-03-21
Goal Category:			

Employee Rating:	Successful Performance	**Manager Rating:**	Successful Performance

Employee Comments:

Name: Beverly Carter / Emp#: 00457948 / Title: Mgr, Call Center Advice Nurses

The UBT Co-lead training is complete. The UBT process was introduced to both HTC and DT Advice Call Ctn. We are currently at 85% complete with the RIM training with a target completion date of June 30, 2011. Both teams HTC and DT are well on their way to progressing to level 2.

Year - End - UBTs have been established at HTC and DT. Both teams are on target with reaching level 3 by year end.

Manager Comments:

UBTs have formed in both HTC and DT. We are in line to achieve level 3 by end of year.

Year End: Both HTC and DT UBTs reached level 3 in December 2011.

Performance Culture

Description: Create a high performance culture
Implement People Pulse action plan by 2nd quarter

Measurement: Staff engagement in People Pulse Action Plans
People Pulse results

Weight:	20%	**Due Date:**	2011-12-31
Goal Category:			

Employee Rating:	Successful Performance	**Manager Rating:**	Performance Needs Improvement

Employee Comments:

Staff was engaged with completing the People Pulse survey. Action plan was completed as requested.

Year - End - People Pulse Action plan was completed and both HTC and DT is on target with reaching this goal.

Manager Comments:

People's Pulse Action plan was completed. It will need to be implemented this second half of the year.

Year End: Action plan was completed but it was not implemented.

Goals Summary

Summary Weight:	70%

Employee Rating:	Successful Performance	**Manager Rating:**	Successful Performance

Employee Comments:

Despite the fact that we are not currently meeting the TSF metrics of 80%, with hard work, dedication, offering more flexible schedules and more support on the phones we are showing improvement in this area. With the support of the Clinical Supervisors and Quality Managers, the Advice Nurses has showed much improvement in the area of quality to include documentation and triage. I have gained a tremendous amount of knowledge in the area of call center operation which has helped me to communicate the needs of the department successfully. I am very dedicated, and spend many hours to ensure the call center is managed properly.

Year - End - Despite the fact that this year has been a quite challenging for the Advice Call Center, the team has shown great strive in reaching most of our goals and still working towards meeting the remaining.

Manager Comments:

Year End: In the past year 2011, the advice call center did not meet call service quality goals of TSF, ASA or Abandonment rate. Close attention needs to be made to staffing. Even though Clinical Quality was met, improvements are needed in the areas of documentation, referrals and appointment scheduling accuracy. One of Beverly's goals this past year was to implement People's Pulse Action Plan but it was not done. Plan included attending MOB or provider lead meetings to increase feeling that advice nurses and providers are part of one team.

Behaviors

Champions Innovation and Change

Description: Embraces and generates better and innovative ways to improve performance aligned to a shared purpose. Commits to sustained, effective change.

Employee Rating:	Excellent Performance	**Manager Rating:**	Successful Performance

Employee Comments:

I am truly committed to the organization and focused on improving the overall performance culture of the call center operation. I am open to suggestions and partners well with the staff to embrace change.

Year - End - As mentioned above, I am truly committed to the success of the Advice Call Center. I embrace change and always willing to partner with my peer for consistency and continuity.

Manager Comments:

Year End: Beverly embraces change and tries to find ways to improve performance.

Collaborates

Description: Supports individual and team efforts by encouraging, influencing and engaging others with different backgrounds, experiences, and points of view. Establishes effective working partnerships, participates in joint decision-making (when appropriate), and works through differences to achieve shared goals.

Employee Rating:	Excellent Performance	**Manager Rating:**	Performance Needs Improvement

Employee Comments:

I collaborate with all and provide direct feedback as necessary to obtain the desired results. I am focus on positive team support and seek input for those directly involved to gain more team involvement. I work closely with the Clinical Supervisors and Quality Managers to ensure they have the support they need to lead a successfully team. I ve been focus on forming a more positive working relationship with my peer to enhance the overall productively and working relationship between the 3 call centers.

Year - End - Despite experiencing a very difficult year, I have remained open to constructive feedback and suggestion in developing a cohesive team. I have remained focus on establishing an effective working partnerships, participates in joint decision-making (when appropriate), and works through differences to achieve shared goals. This task has been achieved by implemented skip level meetings which allow the Advice Nurses to communicate their issues and or concerns. I also hold weekly meeting with the leadership team and one on one meeting to discuss team and operational updates and any area of focus needed. All three meetings have been successful in showing improvement in the team s performance and their overall morale.

Manager Comments:

Beverly supports the team efforts by encouraging and influencing them.

Year End: Beverly has tried to develop effective working relationships. She still needs to support her team by encouraging and engaging them.

Communicates Effectively

Description: Seeks to understand. Asks others for input and feedback, including those with different backgrounds, experiences, and points of view. Actively listens and ensures that people are heard and can raise concerns. Clearly and openly expresses ideas. Adjusts communications to fit the audience. Keeps others appropriately informed of goals and objectives.

Employee Rating:	Successful Performance	**Manager Rating:**	Performance Needs Improvement

Employee Comments:

I communicate effectively with the call center staff. I tend to listen first and ask questions for clarification as needed. I try to remain focus on keeping others appropriately informed of goals and objectives of the team.

Year - End - I work collaboratively with the Call Center Leadership team to ensure they are allowed to communicate their issues and or concerns. I also seek their involvement and feedback on specific task and or team objectives.

Manager Comments:

Beverly asks others for feedback. She will work on ensuring that people are heard and can raise concerns.

Year End: Beverly asks for others input and feedback when making decisions, but she does not aknowledges their input. Staff does not feel that they can not raise concerns to her. When giving directions to supervisors, her message is not fully understood.

Develops Self/Others

Description: Builds skills and capabilities to enhance performance. Seeks and applies feedback. Shares knowledge, feedback and contributes to the learning of others.

Employee Rating:	Successful Performance	**Manager Rating:**	Performance Needs Improvement

Employee Comments:

Due to staffing challenges I have not been able to attend HR training classes as scheduled but plan to reschedule prior to end of year 2011. However, I am always willing to share my knowledge and work collaboratively with others to enhance the team/organization overall performance. I am open to constructive feedback and always look for way to improve. I readily ask for clarification when unsure of a task or process. I am on several committees and readily attend scheduled meetings to offer

Name: Beverly Carter / Emp#: 00457948 / Title: Mgr, Call Center Advice Nurses

call center support and cascade information to the Advice Call Center staff as appropriate.

Year - End - To continue to grow in this area, I have attended the Inside/Out coaching class for leaders. I have also completed an individual development plan which includes a mentor. I will also be meeting with my direct reports to share my IDP and have them to establish one as well.

Manager Comments:

Beverly will take Inside/Out coaching by the end of August. She also help her supervisors develop by coaching them.
She has learned and develop her call center skills well.

Year End: Beverly created an IDP per manager request. Has slowly implemented some of the actions. She still needs to build supervisors skills.

Drives for Results

Description: Makes timely decisions and takes action. Seeks out and utilizes appropriate information and resources to achieve outcomes that best serve the organization. Resolves barriers and obstacles that impede progress. Monitors progress and acts to ensure success, in an ethical manner.

Employee Rating:	Excellent Performance	**Manager Rating:**	Performance Needs Improvement

Employee Comments:

I am result oriented. I am very focus on seeking out and utilizing appropriate information and resources to achieve the best outcome for the department. I am very resourceful in obtaining answers if unsure and seek out assistance as needed. I am focus on removing obstacles as they arise and is creative in finding resolutions.

Mid-Year - I am truly task and results oriented. As indicated above, I am very resourceful in obtaining answers if unsure and seek out assistance as needed. I am focus on removing obstacles as they arise and is creative in finding resolutions. I go above and beyond what is expected of me to achieve a positive out come for the Advice Call Center.

Manager Comments:

Beverly makes timely decisions and takes action as necesary.

Year End: Beverly makes timely decisions and utilizes appropriate information to achieve outcomes in the Advice Call Center. Beverly still needs to monitor progress of the daily operations; ie. TSF and inbasket/ e-mail management.

Focuses on the Customer

Description: Consistently demonstrates the knowledge, skills, abilities and behaviors necessary to provide superior and culturally sensitive service to each other and to our patients, members, customers, contracted providers, vendors, regulators and communities.

Employee Rating:	Successful Performance	**Manager Rating:**	Successful Performance

Employee Comments:

I am very customer focused. I work close with the Clinical Supervisors to ensure they research and respond to members compliant internal and external timely. I am an advocate for patients and will effectively reach out to members in an attempt to provide service recovery as needed.

Name: Beverly Carter / Emp#: 00457948 / Title: Mgr, Call Center Advice Nurses

Year - End - As indicated above, I am very customer focused. I have partnered well with the MOB team in enhancing the overall call center relationship to include holding after-hours meeting to discuss issues and possible resolutions. I remain an advocate for members; willingly reach out to them for service recovery

Manager Comments:

Year End: Beverly is customer focused. This year, she has worked very closely with our internal customer (providers and MOB leadership) to improve their relationship with the advice call center.

Takes Accountability

Description: Takes personal ownership for commitments and performance, including specific deliverables & timeframes; consistently delivers as promised, with integrity.

Employee Rating:	Successful Performance	**Manager Rating:**	Performance Needs Improvement

Employee Comments:

I take full accountability for the area I am responsible for and the decisions that are made. I take ownership of assigned task and commitments and will work late to deliver within expected timeframe.

Manager Comments:

Year End: Beverly takes acountability for her actions and performance. Most of the time she delivers tasks/projects as promised but needs lots of reminders. There has been some monthly reports and other projects not done in time.

Demonstrates Business Acumen

Description: Uses econcmic, financial, market and industry knowledge and data to understand and improve business results. Understands health care industry and Kaiser Permanente's business. Connects internal business activity with broader external view of business to continuously improve performance.

Employee Rating:	Successful Performance	**Manager Rating:**	Successful Performance

Employee Comments:

I am fully aware of the health care industry and Kaiser Permanente's business.

Year - End - I am still fully aware of the health care industry and Kaiser Permanente's business. I am very effective in connecting internal business activity with broader external view of business to continuously improve performance.

Manager Comments:

Year End: Beverly understans healthcare industry and KP's business. She uses knowledge to improve business results.

Exerts Influence

Description: Considers the needs of various diverse interests and people. Persuades others to pursue important courses of action. Mobilizes the interest and commitment of people to gain buy-in, secure cooperation, adjust agendas, & sustain action while maintaining & nurturing important work relationships.

Employee Rating:	Excellent Performance	**Manager Rating:**	Successful Performance

Name: Beverly Carter / Emp#: 00457948 / Title: Mgr, Call Center Advice Nurses

Employee Comments:

I am highly focused on the team cultural interest and needs. I have encouraged the supervisors to reach out to the diversity department to gain more information on how we can best utilize the internal talent of the multi culture community of the Advice Call Center. (I.e. interpreter services)

Year - End - We currently have one of our HTC Advice Nurses approved to interpret for members.

Manager Comments:

Year End: Beverly does understand the diverse needs of her team. She still needs to consider those needs when persuading others and to gain commitment.

Recognizes and Rewards Others

Description: Recognizes and rewards people in proportion to the excellence of their performance. Celebrates individual and team accomplishments when they go the extra mile. Tailors acknowledgement of individual contributions in ways that have personal meaning.

Employee Rating:	Excellent Performance	**Manager Rating:**	Successful Performance

Employee Comments:

I readily send out e-mails of recognition to advice nurses who receive compliments from our internal or external customers. We also provide individual certificates to advice nurses who score greater than 95/97% on their monthly quality audits. I am focus on personally recognizing the Clinical Supervisors and Quality Managers for job well done to include special occasions.

Year - End - I have also implemented birthday recognition for the HTC and DT Advice Nurses and the Leadership Team. This recognition is done with a hand written birthday card for each Advice Nurse and Leadership team member. I will also be implementing anniversary recognition.

Manager Comments:

Beverly recognizes nurses for their excellent performance.

Year End: Beverly has implemented several ways to recognize employees this year.

Thinks and Acts Strategically

Description: Understands the connections and relationships between one's work and how it impacts others. Seeks to understand how one's work fits into the big picture. Looks at the entire process. Considers possible future challenges and opportunities in making plans and decisions.

Employee Rating:	Excellent Performance	**Manager Rating:**	Successful Performance

Employee Comments:

I am very focus on looking at the entire picture to understand the connections and relationships between one s work and how it impacts others. I readily clarify what is expected and how it will affect others involves short term and long-term.

Manager Comments:

Year End: Beverly seeks to understand how her work fits into the big picture. She considers future challenges when making decisions.

Name: Beverly Carter / Emp#: 00457948 / Title: Mgr, Call Center Advice Nurses

Behaviors Summary

Summary Weight:	30%

Employee Rating:	Excellent Performance	**Manager Rating:**	Successful Performance

Employee Comments:

I have grasped a good understanding of my role and responsibility as the Manager of the Advice Call Center Operation. I am a hard worker and do not mind doing what it takes to get the job done. I try to lead by example. I try to remain available to my direct reports to educate and develop them as needed. I truly enjoy the call center atmosphere and look forward to growing in this area.

Year - End - I have worked hard to develop a successful team and meet the organization goals and expectation of the Advice Call Center. I have gained a good knowledge and understanding of my role and responsibility as the Manager of the Advice Call center. I will continue to partner with my direct reports to share this knowledge. I am a strong believer that your team is only as good as you are. With that said, I will remain optimistic, continue to foster a positive atmosphere, enhance the overall improvement of the Advice Call Center and meet the organization standards.

Manager Comments:

Year End - Beverly has skills to lead the advice call center but still needs to enhance and develop in some areas like communication and collaboration to effectively develop her direct reports.

Mid-Year/Introductory Review

Mid Year Review: [X]	**Introductory Review: [ ]**

Employee Rating:	Successful Performance	**Manager Rating:**	Successful Performance

Employee Comments:

I will continue to remain positive and optimistic despite the challenges we have faced in the Call Center. I will continue to partner with my peer to develop a successfully call center and support the KP mission and vision. I will continue to remain focus on staffing and seek ways to enhance staffing retentions.

Manager Comments:

Beverly has had a successful performance this first half of the year. We will work together to achieve the advice team's goals.

Year-End Review

Employee Rating:	Successful Performance	**Manager Rating:**	Performance Needs Improvement

Employee Comments:

Year - End - I have worked hard to develop a sucessful team and meet the organization goals and expectation of the Advice Call Center. The year have been quite challenging but we have shown much strives. I will continue to remain focus on staffing and seek ways to enhance staffing retentions.

Year - End - In partnership with the new director, I have shown great strives in my role and responsibility as the Manager of the Advice Call Center.

Name: Beverly Carter / Emp#: 00457948 / Title: Mgr, Call Center Advice Nurses

Manager Comments:

Beverly has worked to develop the advice team but needs to pay attention to listening to her staff and making sure staff understands why processes are done. This year, I would like for Beverly to act on issues proactively instead of reactively. For example, daily staffing to prevent low TSF or review concern trends to prevent further concerns.

Signature Section

By signing this, we acknowledge discussion and receipt of the Performance Review for this year. The eSignature on the Performance Review document in the MyHR system is the source of record for this performance review.

Beverly Carter	Date	**Lilian Bacian**	Date

EXHIBIT 2

ANANDA HARRIS - RE: EEOC Charge No. 410-2012-05229 Beverly Carter vs. Kaiser

From: "Jeanne Bynum Hipes" <counsel@hipeslaw.com>
To: ANANDA.HARRIS@EEOC.GOV
Date: 12/20/2012 4:37 PM
Subject: RE: EEOC Charge No. 410-2012-05229 Beverly Carter vs. Kaiser

Good afternoon, Ms. Harris,

Here is the input from Beverly Carter that you requested: I have re-stated each representation of Respondent Kaiser, as set forth in your email to me of 10/29/12, and have placed Ms. Carter's applicable response right below the representation:

. CP supervised by Bacian on October 18, 2010:

MS. CARTER'S RESPONSE: Yes, this is correct.

· CP had previously worked as an RN or RN Manager until working as a Call Center Advice Nurse Manager in Sept 2009:

MS. CARTER'S RESPONSE: Yes, this is correct.

· Until becoming a Call Center Manager, CP was successfully rated:

MS. CARTER'S RESPONSE: True. We note that, until Ms. Bacion entered the picture and began treating her in a hostile fashion, Ms. Carter was routinely rated successfully, with many ratings of excellent or above average in many categories.

· In January 2010, Respondent changed its performance eval system:

MS. CARTER'S RESPONSE:

In the case of Ms. Carter, the performance evaluation system change was made without any previous notification, and, without any prior warning regarding perceptions of her performance. Her personal performance under Ms. Bacian went from "meets" or "successful" to "development needed." This rating placed Ms. Carter on a PIP (Performance. Improvement Plan); it prevented her from posting for any other jobs; it deprived her of a merit increase. Ms. Carter had no idea or forewarning of this misperceived significant change in her performance level, and therefore could not do anything about it--as by the time it was given to her, it was too late. Also, interestingly, Ms. Bacian made the comment to Ms. Carter during Ms. Carter's performance review that, "If you received this rating, what do you think I received?" Such a comment seems to infer that Ms. Bacian got a negative performance review, and just passed the blame onto Ms. Carter to deflect it from herself.

Regarding CP's alleged performance issues during 2011:

o Nurses were not using the "not ready" status and instead logging off the phones.

MS. CARTER'S RESPONSE:

This assertion is misleading. Under the initial direction of the previous Director, the nurses, when unavailable to take calls, set their systems using a "Not Ready" reason code. For breaks, however, they had been instructed by the previous Director to completely log off their system. There was a business reason for this, but Ms. Carter does not recall specifically what it was. However, all the Call Centers used the system this way as a result of the previous Director's guidance. When Ms. Bacion realized this was the process being used, she requested that the process be changed so as to have the nurses remain logged in at all times and to use the Not Ready reason codes even when on breaks. Once the request was made by Ms. Bacion, changes were made and it was monitored though the quality assurance process. If the staff failed to utilize the new process, these instances were addressed. Prior to Ms. Bacion's contrary instructions, the nurses merely continued to follow the directions of their previous Director.

o CP was required to use a scorecard, but it was not maintained:

MS. CARTER'S RESPONSE:

This assertion likewise is entirely misleading. Due to the implementation of the two new nurse advice call centers, the scorecard was only being utilized at the Regional Call Center and not at the other two locations. Once Ms. Bacian realized the Henry Town Center and Dekalb Tech call centers were not utilizing scorecards, she scheduled a meeting with the Managers (Jill Maull and Ms. Carter), the Analyst, Semitria Brown, and the Manager of Clinical Content, Vivian Hazzard. Ms. Bacian asked the group to develop a scorecard that *all* the call centers could use. In establishing these scorecards, the Analyst and the Manager of Clinical Content were charged with developing the scorecards, where the data would be automated between the overall scorecard down to the nurses individual scorecards. This means that the nurses information would be entered into one sheet and it would automatically download into the other spreadsheets giving a manager unit information, team information, and individual information without having to manually enter it multiple times.

As the time approached for "total performance" (i.e., the system in which the nurses' performance ratings as well as their merit increases were determined), the Analyst, Semitria Brown, and the Clinical Content Manager, Vivian Hazzard, were still experiencing technical issues with the scorecards. (The scorecards reflected the performance of the nurses on key measures.) Ms. Bacian was totally aware of the issue, so one of the Clinical Supervisors and Ms. Carter stayed late to manually enter the data to ensure the Supervisors would have the data needed to complete the nurses' " total performance." (which includes the data supplied from the scorecards.) Respondent Kaiser Permanente even today still is experiencing problems with this tool (even though Ms. Carter has been gone from Kaiser for some time).

o CP was aware that nurses were not responding in a timely manner to emails, but did not immediately resolve the issue.

MS. CARTER'S RESPONSE:

The assertion is not clear on what "immediately" is referencing. Email issues were addressed in a manner consistent with organizational policy, unless Ms. Bacian herself prevented it. Since the consolidation of the Henry Town Center and Dekalb Tech call centers, the doctors providing medical care to Kaiser's patients (the "Providers") and who worked with the Call Center advice nurses requested that the responsibility of responding to emails be handled by the nurses working at the medical facility where the doctors worked rather than by the Call Center advice nurses. When this request was denied by Senior Management (specifically Jonna Kirkwood), the Providers would constantly complain about the turnaround time of the advice nurses managing the emails.

It was the organization's policy that all emails should be responded to within 72 hours, and if an email was received late Friday, it could be responded to by close of business Tuesday. To the Providers, this was not acceptable and they would complain.

Senior Management was aware of this problem, but still supported the 72 hour turnaround time policy. For the most part, the Call Center managed by Ms. Carter was on target with this requirement, and when falling short, Ms. Carter would approve overtime, and solicit support from the nurse supervisors (Michelle Robinson, Mia Mitchell, Remelle West, and Caroline Conduah) to keep emails current.

Ms. Carter's Center also kept a tracking tool to ensure the Center nurses remained current with managing the emails timely. Ms. Carter would reach out to Ms. Bacian when overtime was needed to ensure all email was timely addressed, but at times she would deny the overtime. When overtime was denied, this created significant additional workload during the day, and on occasion, more emails processed untimely.

The biggest problem with managing emails is if they sit over the weekend and are not touched until late Monday or by close of business Tuesday.

The Henry Town Center and Dekalb Tech Call Center staff (under Ms. Carter's direction) were always pulled in to assist the Regional Call Center, but the Regional Call Center staff (under Jill Maull's direction), which operates over the weekend, was never pulled in to assist with emails received over the weekend. All three call centers are operated by nurses. As may be recalled from Ms. Carter's Charge, Ms. Bacion regularly treated Jill Maull (who is white and similarly situated similarly to Ms. Carter) better than she treated Ms. Carter. This was obvious and public, and noticed by more than Ms. Carter. Ms. Maull was given fewer assignments, more choice assignments, more flexible shifts, different, less-demanding requirments on items such as quality and baylor schedules. Unlike for Ms. Carter and her two Call Centers, Ms. Bacian was lax on insisting that Ms. Maull properly address her Call Center's attendance issues. Further, Ms. Maull was treated with respect by Ms. Bacion in a way that, inexplicably at the time, Ms. Carter was obviously not.

o CP failed to implement an action plan to improve morale of the advice nurses during her mid year review.

MS. CARTER'S RESPONSE:

This assertion is incorrect. The major morale issues in the call center were due to staff not being allowed vacation time when requested. I had a total of 80+ employees and was only allowed to approve time off for only seven nurses at any given time. This created attendance issues, which then created staff being placed on corrective action. This issue was escalated to Senior Management and Union involvement.

However, to curtail some of the morale issues, the following steps were taken pursuant to Ms. Carter's direction:

a) The Staff created a Morale Committee, which scheduled pot lucks, off-site cook outs, and birthday celebrations.

b) Ms. Carter implemented a suggestion box, which was housed in the employee break room for the employees to place any issues, concerns and or suggestions. The supervisors and Ms. Carter would review the comments and attempt to respond to at least five of the suggestions weekly. Most of the comments were related to approval of time off requests. This issue was discussed with Ms. Bacian, but nothing was done. Ms. Carter also suggested to Ms. Bacian that we start the cross training of the nurses--which would have allowed more nurses to be approved for time off requests. This process was implemented to include a "Preceptor" program. This involved using top rated, seasoned nurses to assist in training and to check off the newly hired or cross training nurses. This program was later discontinued by Ms. Bacian when Ms. Carter went out on Medical Leave.

c) Ms. Carter implemented "skip level" meetings also. This meant that Ms. Carter would meet directly with the nurses instead of just meeting with the supervisors, which was the next level down from Ms. Carter. It allowed the lower level staff to meet directly with Ms. Carter and to voice anything they may have say, and to bring up any issues they may be experiencing. Some of the staff would complain about the way the supervisors would respond to them via "same time messages." (These are like instant messages--a method to communicate via a message in the computer directly and immediately with the nurses in order to answer questions or pass along information). Ms. Carter immediately met with each staff person's supervisors to provide direction on what should be stated in same time messages to prevent the nurses from feeling accused of not working.

d) Ms. Carter implemented a process to recognize the staff (Core and Temp) birthdays and anniversaries with a personalized hand written note from Ms. Carter. The staff even informed the Supervisors and Ms. Bacian how much they appreciated receiving this type of communication from me. Ms. Carter also recognized the staff when they received notification of appreciation regarding service they provided to patients and/or providers.

e) Holidays and Birthdays - The leadership team members received personal gifts from Ms. Carter (not out of the budget) to include a dinner during Christmas.

It would seem prudent to contact the nursing staff, rather than Ms. Bacian or Respondent's counsel, to verify the truth (or untruth) of the matters Respondent asserts in defense of Ms. Carter's discrimination charge.

o CP supervisors complained that she would not implement their ideas, and when she did she took credit for it:

MS. CARTER'S RESPONSE:

The assertion itself is contradictory. First it states that Ms. Carter did not implement the supervisors' ideas, and then it admits that Ms. Carter did implement their ideas, but complains that she took credit for their ideas.

Ms. Carter would need specific examples to respond to this statement. What supervisors are making such assertions? Others besides Ms. Bacian?

Ms. Carter would hold regular meetings with the Leadership Team to discuss any issues or concerns or brainstorm ways to improve the work flow in the Call Center. During this meeting, the Leadership Team agreed on proceeding with a Preceptor program (described above), which was implemented and included one of the supervisors, a quality manager and some of the advice nurses. They created a cross training process that would include the help of Preceptors to add more support on the advice phones. This program was rolled out at the Henry Town Center location and then later was to be rolled out at Dekalb Tech and the Regional Call Center. The other recommendation Ms. Carter received from the Leadership Team was to add additional staffing, but efforts to add staffing were denied for the most part due to budgeting and headcount issues.

Also Ms. Bacian would attend most of my Leadership Team meetings and, anomalously, provided Ms. Carter with positive feedback after the meetings

o CP was counseled on various systems to enable her to more effectively monitor staff.

MS. CARTER'S RESONSE:

Ms. Carter would need Ms. Bacian to provide documentation demonstrating when she counseled Ms. Carter in this area. Ms. Carter is not aware of any information given to me by her Director to which she did not respond timely and appropriately.

The Analyst was hired to assist with real time monitoring, and when staffing was extremely short, which was most of the time, the Supervisors (Caroline Conduah, Remelle Wes, Mia Mitchelle and Michelle Robinson) were scheduled in alternating shifts to assist with this responsibility. Sometime Ms. Carter would assist as well.

To better learn the different systems, Ms. Carter scheduled herself time with the Analyst periodically prior to Ms. Bacian joining the team. Ms. Carter also partnered with the Supervisors and had them do the same.

7) CP failed to show interest in improving her skills and failed to demonstrate that she can develop others.

MS. CARTER'S RESPONSE:

On one occasion, Ms. Bacian provided Ms. Carter feedback that the nurses were complaining about my visibility on the floor during the day. To address this issue, Ms. Carter would walk the floor 2-3 times a day specifically talking to the staff if they were not on a call and spend time with them during their lunch while they were in the break room. Ms. Carter also reached out to a mentor (Dawn Rock), VP of Compliance, to see if she had any recommendation regarding Ms. Carter's development within the organization.

In regard to Ms. Carter's ability to develop others, Ms. Carter promoted 5 advice nurses to supervisors. One of those Ms. Carter promoted is now being considered for the position of Manager of the Advice Call Center over the Regional and Dekalb Tech locations. Another Supervisor was promoted to a Regional Manager over a facility.

o CP failed to take accountability for the performance of her team.

MS. CARTER'S RESPONSE:

When the two Call Centers (Henry Town Center and Dekalb Tech) were consolidated, the staffing forecasting was done incorrectly, which caused the consolidated Call Center to be considerably short staffed. Projection based on the call volume when the nurses were in the facility required 63 Full Time Employees ("FTEs"). However when the call volume was actually tracked, 84 FTE's were required. This is a significant short fall in a call center environment. However, the consolidated center later received approval to hire an additional 10-20 agency nurses. With the high turnover, there was ongoing training to meet the organization needs. Prior to Ms. Bacian coming aboard, the Call Center was meeting and exceeding standards. However, once Ms. Bacian was hired, the call center performance declined and as of today they are still not meeting the required metrics. This information and data was shared with Ms. Bacian's boss, Mike Wathem.

During Ms. Carter's meeting with Mr. Wathem, he asked me if Ms. Carter if she knew why the call centers was not performing well. Ms. Carter informed him that Ms. Bacian would not take any suggestions or recommendations. When Ms. Carter and her team implemented cross training again to provide more support on the phones, Ms. Bacian would stop the training. Ms. Carter also suggested that the Call Center allow more flexible scheduling for the nurses, and Ms. Bacian again refused, stating, "We do not have enough staff to pull staff off the phones to cross train."

When Ms. Carter went on Medical Leave, however, Ms. Bacian allowed Jill Maull to implement cross-training of her staff, but at a speed in which the nurses felt incompetent. This issue was escalated to the Union and then HR became involved.

Instead of Ms. Bacian focusing on allowing Ms. Carter to hire staff during the day high peek times, Ms. Bacian would request that Ms. Carter hire staff to support the Regional Call Center (where Jill Maull was the manager) during the hours between 4:00 and 8:00 p.m., and in the morning between 7:00 and 8:00 a.m. to finish the work that the Regional nurses were unable to handle.

Ms. Bacian also requested Jill Maull to assign nurses to assist Henry Town Center & Dekalb Tech during lunch coverage, but when Ms. Bacian was showed a report by the Analyst indicating that Jill Maull's staff was not productive, Ms. Bacian did absolutely nothing. In turn, Ms. Maull directed the Analyst not to provide Ms. Carter with a copy of this report.

o CP threatened her Supervisor that she would go to the Regional President Kohnen if her eval was not changed and then threaten to go to Chairman and CEO Halvorson:

MS. CARTER'S RESPONSE:

Ms. Carter was actually advised by HR's Linda Boatwright to escalate the issue regarding Ms. Carter's evaluation to Mike Wathem (Ms. Bacian's boss) and CaryKohnen, the Regional President. Once Ms. Carter met with Mike Wathem, the hostility issues with Ms. Bacian became even worse. Ms. Boatwright requested that Ms. Carter schedule another meeting with Mr. Wathem, but he declined. Ms. Carter also reached out to Joanna Kirkwood, but she failed or refused to return Ms. Carter's phone call. Ms. Carter never mentioned talking with Mr. Halvorson nor did she ever reach out to him.

Kaiser has a non retaliation policy, but when Ms. Bacian started retaliating against Ms. Carter when she reported, pursuant to Linda Boatwright's direction, to Mike Wathrm the hostility and mistreatment she was experiencing from Ms. Bacian, nothing was done to address any of the issues or the retaliation. Ms. Bacian stated to Ms. Carter during their one-on-one meeting, "You can talk with whomever you want, nothing is going to change." Ms. Carter did not respond to this comment, but asked Ms. Bacian if she (Ms. Carter) was doing *anything* correct. Ms. Bacian looked at Ms. Carter and flatly said, "No." Ms. Carter immediately informed HR's Linda Boatwright, who stated this comment was not good.

o On March 20th CP began Medical leave, which was initially denied because she did not submit paperwork.

MS. CARTER'S RESPONSE:

Ms. Carter submitted the required paperwork and received an email confirmation. Ms. Carter never received anything in the mail stating that her FMLA was denied until she received a call from Ms. Bacian stating that she needed to submit her paperwork *again*. Ms. Carter did so, and even reached out to HR to ensure they received her paperwork. The HR Rep stated that she did receive Ms. Carter's paperwork and that her leave would be approved.

o FMLA leave expired on June 16th and was extended, and other "leave"-related assertions.

MS. CARTER'S RESPONSE:

The leave extension was approved only after Ms. Carter's lawyer became involved. Ms. Carter received a voice mail from Ms. Bacian stating that if Ms. Carter did not return to work on June 16th—prior to her doctor's release—she would be fired because they were not going to approve Ms. Carter's extension. Ms. Carter also receive a call from Jayleen Raymond in HR stating the same. Ms. Carter informed Ms. Bacian and Ms. Raymond that her doctor had extended her return to work date because Ms. Carter was still unable to walk. Ms. Carter's doctor at that time was out on vacation, and Ms. Raymond stated if they did not receive Ms. Carter's paperwork, she would be terminated. The paperwork had already been submitted several times at this point.

Ms. Carter had been an employee with Kaiser for 14 years and had never been out on leave (except for two weeks when her house burned down). She had no attendance issues. It was very upsetting to Ms. Carter during this critical time when she was not able to come back to work due to a serious medical condition, and she was being informed that she would lose my job due to Kaiser's reporting system. We believe this is evidence not only of discrimination commencing when Ms. Bacian came on board, but also FMLA interference.

Please let me know if we can provide any additional information, or if you have any questions at all.

Hope you have a wonderful Holiday Time with your family.

Best regards,

Jeanne Bynum Hipes
Managing Trial Counsel

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From: ANANDA HARRIS [mailto:ANANDA.HARRIS@EEOC.GOV]
Sent: Thursday, December 06, 2012 5:00 PM
To: counsel@hipeslaw.com
Subject: RE: EEOC Charge No. 410-2012-05229 Beverly Carter vs. Kaiser

Ms. Hipes,

Please provide your evidence no later than December 20, 2012. It won't be a problem because I am on Intake next week and in the field early that week, but I do need to start working on this case and need her evidence.

Thanks,

Ananda

Ananda Harris
Investigator
U.S.Equal Employment Opportunity Commission
Atlanta District Office
100 Alabama St.SW, Suite 4R30
Atlanta, Georgia 30303
Tel: 404/562-6849
Fax: 404/562-6910
Email: ananda.harris@eeoc.gov

>>> "Jeanne Bynum Hipes" <counsel@hipeslaw.com> 11/29/12 3:35 PM >>>
Ms. Harris,

We have been having some severe technology issues over the last few weeks, and for reasons inexplicable, I just today received your email below.

As perhaps I mentioned in our last conversation, my client has just lost her father and has been out of touch since you and I last spoke.

In view of these complicating issues, I would ask for an extension until December 20th to provide any additional information my client might have.

Please let me know if this would be satisfactory.

Thank you so much.

Best regards,

Jeanne

Jeanne Bynum Hipes
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-----Original Message-----
From: ANANDA HARRIS [mailto:ANANDA.HARRIS@EEOC.GOV]
Sent: Monday, October 29, 2012 11:21 AM
To: counsel@hipeslaw.com
Subject: RE: EEOC Charge No. 410-2012-05229 Beverly Carter vs. Kaiser

Below are the main points from Respondent's Position Statement. Please let me know when next week you are able to discuss this case.
Thanks.

· CP supervised by Bacian on October 18, 2010
· CP had previously worked as an RN or RN Manager until working as a Call Center Advice Nurse Manager in Sept 2009
· Until becoming a Call Center Manager CP was successfully rated
· In January 2010, Respondent changed its performance eval system
· CP's performance during 2011
o Nurses were not using the "not ready" status and instead logging off the phones
o CP was required to create scorecards, but it was not maintained
o CP was aware that nurses were not responding in a timely manner to emails, but did not immediately resolve the issue
· CP failed to implement an action plan to improve morale among the advice nurses during her mid-year review
· CP's supervisors complained that she would not implement their ideas and when she did she would take credit for them
· CP was counseled on various systems to enable her to more effectively monitor staffing
o She failed to show interest in improving her skills and failed to demonstrate that she could develop others
· CP failed to take accountability for the performance of her team
· CP threatened her Supervisor that she would go to Regional President Kohnen if her eval was not changed and then threatened to go to Chairman and CEO, Halvorson
· On March 20, 2012, CP began medical leave
o It was initially denied because she did not submit complete paperwork
o CP used PTO because her doctor was out of town * CP's PTO was credited when FMLA was certified
o FMLA leave expired June 16, 2012 and CP's leave was extended

Ananda Harris
Federal Investigator
U.S.Equal Employment Opportunity Commission Atlanta District Office
100 Alabama St.SW, Suite 4R30
Atlanta, Georgia 30303
Tel: 404/562-6849
Fax: 404/562-6910
Email: ananda.harris@eeoc.gov

From: Jeanne Bynum Hipes [mailto:counsel@hipeslaw.com]
Sent: Friday, October 26, 2012 10:53 AM
To: <ananda.harris@eeoc.gov>
Subject: RE: EEOC Charge No. 410-2012-05229 Beverly Carter vs. Kaiser

Ananda,

Thank you for taking the time to speak with me today.

I understand that you will send me a detailed email about the issues
raised
in the Employer's response, and we will then try to schedule a
conference
for the following week (week of November 5th) with either just me or me
and
Ms. Carter, if that works out. I understand you will be on intake
detail--meeting with the public about their claims--all next week, but
will
get the email out to us before that starts on this coming Monday
morning.
You indicated your email with contain sufficient detail such that I can
be
sure to obtain all relevant facts from Ms. Carter ahead of time so that
it
will not be critical for Ms. Carter to be on the conference.

Thank you again for moving this case forward.

We look forward to receiving your email on Monday.

Best regards,

Jeanne

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-----Original Message-----
From: ANANDA HARRIS [mailto:ANANDA.HARRIS@EEOC.GOV]
Sent: Friday, October 26, 2012 9:06 AM
To: counsel@hipeslaw.com
Subject: Re: EEOC Charge No. 410-2012-05229 Beverly Carter vs. Kaiser

Good Morning,

I left a voice message for your this morning. I need to reschedule.
I
sincerely apologize for the change. I will be on intake next week so I
will
be in the building, but not in my office. Is it possible for you and I
to
discuss the Position Statement and later Ms. Carter? When I'm on
intake I
rarely have time to do anything else, but when there is down time I can
give
you a call.

Also, my email is up and down today so feel free to call me at
404-514-3687
(cell).

Thanks,
Ananda

>>> Jeanne Bynum Hipes 10/26/12 6:09 AM >>>
Hi Ananda,

Thank you for coming in just for this interview!

Although a few numbers come in on this line, I believe the number you
shoul
d see is 678 867 7006.

If by chance you see 770 521 0022, or 770 500 8802, that would also be
us.

I look forward to talking with you at 10:30 this morning.

Thank you,

Jeanne Bynum Hipes

Sent from my iPhone

On Oct 25, 2012, at 10:54 PM, "ANANDA HARRIS" wrote:

> Good Evening,
>
>
> Friday at 10:30 works best for me. Please let me know what number
you'll
be calling from because I am going into the office only for this
interview
and do not plan to answer any other calls.
>
>
> Thanks,
> Ananda
>
>
>
>>>> "Jeanne Bynum Hipes" 10/25/12 3:45 PM >>>
>
>
> Hi Ananda,
>
> I have just had opportunity to connect with my client, and both of us

> could be available between 10:00 and 11:30 tomorrow (Friday)
morning.
>
> Please let me know if some time in that period would work for you,
and
> we will call you then.
>
> Thank you so much,
>
>
>
> Description: signatures-jeanne_sm.gif
>
> Jeanne Bynum Hipes
>
> Managing Trial Counsel
>
> HIPES LAW LLC
> 2475 Northwinds Parkway, Suite 200
> Alpharetta, Georgia 30009
> Main: (678) 867-7006
> Fax: (770) 783-5010
>

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Version: 2013.0.2742 / Virus Database: 2617/5861 - Release Date: 10/29/12